

**Before the**  
**N.H. Respiratory Care Practitioners Governing Board**  
**Office of Allied Health Professionals**  
**Concord, New Hampshire 03301**

In the Matter of:  
Maximo Acosta, RCP  
License No. 0787

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of respiratory care therapy, the New Hampshire Board of Respiratory Care Practitioners ("the Board") and Maximo Acosta, RCP ("the Respondent") agree to settle certain allegations of professional misconduct now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by respiratory care practitioners who are its licensees pursuant to RSA 328-F: 23, I; RSA 328-F: 24; and RSA 328-F: 25, I. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F: 25, III and New Hampshire Office of Licensed Allied Health Professionals Administrative Rule ("Ahp") 214.01.

2. The Board first granted Respondent a license to practice respiratory care in the State of New Hampshire on June 14, 2001. Respondent holds license number 0787. Respondent had been practicing respiratory care in New Hampshire and Massachusetts.

3. On or about January 5, 2011, the Board received information from the Massachusetts Board of Respiratory Care ("Massachusetts Board") indicating that

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Respondent had been disciplined in Massachusetts for practicing as a respiratory therapist with an expired license. The Board is authorized to take reciprocal discipline pursuant to RSA 328-F:23, II (g)

4. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence upon which the Board could conclude that Respondent engaged in professional misconduct, in violation of RSA 328-F:23, II (g) by the following facts:

- A. On or about October 8, 1998, Respondent became licensed to practice as a respiratory therapist in Massachusetts. Respondent failed to renew his Massachusetts license on May 31, 2010.
- B. Respondent continued to practice between May 31, 2010 and October 8, 2010. Respondent's employer discovered his unlicensed practice during an internal personnel record audit.
- C. On or about December 23, 2010, Respondent and the Massachusetts Board entered into a Consent Decree with regard to this conduct. Pursuant to the terms of the Consent Decree, Respondent was reprimanded for this period of unlicensed practice.

5. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct Respondent violated RSA 328-F:23, II (g).

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6. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a respiratory care practitioner in the State of New Hampshire.

7. Respondent consents to the following disciplinary action by the Board pursuant to RSA 328-F: 23, V:

- A. Respondent is REPRIMANDED.
- B. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this Settlement Agreement to any current employer for whom Respondent performs services as respiratory care practitioner or work which requires specialized training in respiratory care therapy or a respiratory care license, or which directly or indirectly involves patient care and to any agency or authority which licenses, certifies or credentials respiratory care practitioners with which Respondent is presently affiliated.
- C. For a continuing period of twelve (12) months from the effective date of this agreement, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as a respiratory care practitioner or for work in any capacity which requires respiratory care training, or license or directly or indirectly involves patient care and to any agency or

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authority that licenses, certifies or credentials respiratory care practitioners to which Respondent may apply for any such professional privileges or recognition.

8. Respondent's breach of any terms or conditions of this Settlement Agreement shall constitute unprofessional conduct pursuant to RSA 328-F: 23, IV (d) and a separate and sufficient basis for further disciplinary action.

9. Except as provided herein, this Settlement Agreement shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future. Any future discipline by the Board could include license suspension or revocation.

10. This Settlement Agreement shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.

11. Respondent voluntarily enters into and signs this Settlement Agreement and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.

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12. The Board agrees that in return for Respondent executing this agreement, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.

13. Respondent understands that his action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.

14. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this agreement.

15. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced his right to a fair and impartial hearing in the future if the Board does not accept this agreement.

16. Respondent is not under the influence of any drugs or alcohol at the time he signs this agreement.

17. Respondent certifies that he has read this document entitled Settlement Agreement. Respondent understands that he has the right to a formal adjudicatory hearing concerning the matters stated herein and that at said hearing he would possess the rights to confront and cross examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations to present oral argument and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions

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of these rights. Respondent understands that by signing this agreement he waives these rights as they pertain to the misconduct described herein.

18. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

**FOR THE RESPONDENT**

Date: 5/31/11

Maximo Acosta  
Maximo Acosta, RCP  
Respondent

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

**FOR THE BOARD/\***

Date: 6/2/11

Tina M Kelley  
(Signature)

TINA M Kelley  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Respiratory Care  
Practitioners Governing Board

/\* Board Members, recused:

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